## REMARKS

### THE SECTION 101 REJECTION

Claims 1-20 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The office provides the following reasons for the section 101 rejection:

Claim 1 is not tangible. The preamble of independent claims 1, 10 (and 16) recite "A computer-implemented method for uploading image data to a remote computer, comprising ", which is directed to software, per se, lacking any hardware to enable any functionality to be realized. The claimed features and elements of independent claims 1, 10 (and 16) do not include hardware components or features that are necessarily implemented in hardware. Therefore, the claimed features of claims 1, 10 and 16 are actually a software, or at best, directed to an arrangement of software, and software claimed by itself, without being executed or implemented on a computer medium, is intangible.

To expedite a complete examination of the instant application, the claims rejected under 35U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of the applicant amending these claims to place them within the four statutory categories of invention.

In response, the phrase "computer-implemented" has been deleted from the preambles of the independent claims 1, and 10.

Withdrawal of the Section 101 rejections is respectfully requested.

### THE SECTION 103 REJECTIONS

### REJECTIONS OF CLAIMS 1-20

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pajitnov et al. (US Patent No. 6,102,796) in view of Hoffert et al. (US Patent No. 6,374,260).

The Office Action stated:

Regarding claims 1 and 10, Pajitnov discloses a computer-implemented method for uploading image data to a remote computer comprising defining an area in a user interface adapted to receive an image (see col. 24, lines 4-33); partitioning the image into one or more fragments (see col. 14, lines 44-63); and uploading each fragment to the remote computer (see figures 7-8); however, Pajitnov fails to

explicitly teach generating a thumbnail associated with the image when the image is associated with the area.

Hoffert teaches generating a thumbnail associated with the image when the image is associated with the area (see col. 10, lines 1-65). It would have been obvious to one of an ordinary skill in the art, having the teaching of Pajitnov and Hoffert at the time the invention was made, to modify uploading each fragment to the remote computer of Pajitnov to include generating a thumbnail associated with the image when the image is associated with the area, as taught by Hoffert. One would have been motivated to make such a combination in order to enable user a preview image before selecting or uploading partitioning image to the remote computer.

Regarding claims 2 and 11, Pajitnov discloses determining whether a fragment upload was successful (see col. 5, lines 1-62).

Regarding claims 3 and 12, Pajitnov discloses further comprising generating a message if one or more fragment uploads had failed (see col. 7, lines 10-67).

Regarding claims 4 and 13, Pajitnov discloses further comprising retrying the uploading step if the fragment upload failed (see col. 9, lines 17-63).

Regarding claims 5 and 14, Hoffert wherein the message relates to one or more of the following: the name of the file, the number of fragments received, the number of outstanding fragments, the location of the file, and instructions on finishing the upload (see col. 7, lines 54-65 and col. 8, lines 1-33).

Regarding claims 6 and 15, Hoffert discloses wherein generating the thumbnail further comprises decompressing the image file (see col. 4, lines 18-67).

Regarding claim 7, Hoffert discloses wherein generating the thumbnail further comprises loading the local thumbnail into a browser for viewing (see col. 10, lines 18-56).

Regarding claims 8 and 9, Hoffert discloses further comprising generating metadata associated with each fragment (see col. 11, lines 5-2 1).

As per claims 16-20 are apparatus claims that corresponds to method claims 1-15, and thus are rejected for the aforementioned reason.

Pajitnov et al. disclose "Composing an image with fragments. The fragments of an image are downloaded from a server. The fragments are displayed in an initial configuration within the image. One of the fragments located at one of the positions within the image is then selected. The selected fragment is then moved to a second position within the image which has defined characteristics. The selected fragment is then visually altered to conform to the defined characteristics of the second position. The visual alteration may include altering the size or the aspect ratio or both of the fragments to conform to the defined characteristics of the respective positions, such as a positions within a grid, or altering the size or orientation or both of the fragments to conform to the defined characteristics of their

respective positions, such as C-shaped fragments arranged radially around a center of the image. After the appearance of the selected fragment is altered, a new configuration of the image fragments may be displayed. A determination may also be made to determine whether the new configuration of the fragments correctly represents the image. If the new configuration does not correctly represent the image, then another fragment may be selected and the above process may be repeated. However, if the new configuration correctly represents the image, a timestamp may be uploaded to the server. In response to the timestamp, a score may then be downloaded from the server."

Hoffert discloses "a method and apparatus for uploading, analyzing, searching and displaying multimedia files based on the context and content of the multimedia files."

The amended claim 1 of the instant application recites:

A computer-implemented method for uploading image data to a remote computer, comprising:
    defining an area in a user interface adapted to receive an image;
    generating a thumbnail associated with the image when the image is associated with the area;
    partitioning the image into one or more fragments;
    <u>generating metadata including the total number of fragments to be uploaded;</u>
    <u>sending the metadata to the remote computer</u>; and,
    uploading each fragment to the remote computer.

The amended claim 10 recites:

A computer-implemented method of uploading image files from a local computer to a remote computer, comprising:
    receiving input from a user identifying an image file;
    generating a thumbnail image from the image file;
    partitioning an image file into a plurality of fragments;
    <u>generating metadata including the total number of fragments to be uploaded;</u>
    initiating an upload of the fragments to the remote computer;
    <u>sending the metadata to the remote computer;</u> and
    displaying information about the status of the upload of the image file.

The amended limitations in claims 1 and 10 are disclosed in page 14, line 14 to page 15, line3 in the instant application.

Pajitnov does not disclose the elements "generating metadata including the total number of fragments to be uploaded" and "sending the metadata to the remote computer" in claims 1 and 10 of the instant application.

Hoffert does not disclose "partitioning the image into one or more fragments". Hoffert further does teach "generating metadata including the total number of fragments to be uploaded" and "sending the metadata to the remote computer" in claims 1 and 10 of the instant application.

Furthermore, neither Pajitnov nor Hoffert discloses the element "generating a thumbnail associated with the image when the image is associated with the area" in claims 1 and 10. The instant application discloses the generation of thumbnail images when the images are dragged and dropped to a predefined area (Figures 8 and 9, and related discussions). Although Hoffert discloses thumbnail images, but it does not disclose that the thumbnal image of an image is generated "when the image is associated with the area".

In sum, at least one element in claim 1 and 10 is missing in Pajitnov and Hoffert. Pajitnov and Hoffert, singly or in combination, therefore cannot render claims 1 and 10 obvious.

Claims 2-9 and 11-15 respectively depend on the claim 1 and claim 10, and thus have all the limitations of claims 1 and 10. In addition, the element "determining whether a fragment upload was successful" in claims 2 and 11 is not found in Pajitnov (Col. 5 or elsewhere).

The element "generating a message if one or more fragment uploads had failed" in claims 3 and 12 is not found in Pajitnov (Col. 7 or elsewhere).

The element "retrying the uploading step if the fragment upload failed" in claims 4 and 13 is not found in Pajitnov (Col. 9 or elsewhere).

The element "the thumbnail further comprises decompressing the image file" in claims 6 is not found in Hoffert (Col. 4 or elsewhere).

The element "wherein the metadata includes one or more sizes of the fragments to be uploaded or raw image dimensions" in claims 8 and 14 is not taught by Pajitnov or Hoffert.

The element "wherein the metadata includes one or more sizes of the fragments to be uploaded or raw image dimensions" in claims 9 and 15 is not taught by Pajitnov or Hoffert.

Withdrawal of the Section 103 rejections on claims 1 and 10, and their respective associated dependent claims 1-9 and 11-15 is respectfully requested.

Claim 16 of the instant application recites:

A system for uploading image data to a remote computer, comprising:
     a display device configured to define an area in a user interface adapted to receive an image;
     a computer configured to generate a thumbnail associated with the image when the image is associated with the area, to partition the image into one or more fragments and to generate metadata including the total number of fragments to be uploaded; and
     a communication device configured to upload each fragment and sending the metadata to the remote computer.

The amended limitations are disclosed in page 14, line 14 to page 15, line3 in the instant application.

Pajitnov does not disclose the elements "a computer configured… to generate metadata including the total number of fragments to be uploaded" and "a communication device configured to … send the metadata to the remote computer" in claims 1 and 10 of the instant application.

Similarly, Pajitnov does not disclose the elements "a computer configured… to partition the image into one or more fragments, and to generate metadata including the total number of fragments to be uploaded" and "a communication device configured to … send the metadata to the remote computer" in claims 1 and 10 of the instant application.

Furthermore, neither Pajitnov nor Hoffert discloses the element "a computer configured to generate a thumbnail associated with the image when the image is associated with the area" in claims 1 and 10. The instant application discloses the generation of

thumbnail images when the images are dragged and dropped to a predefined area (Figures 8 and 9, and related discussions). Although Hoffert discloses thumbnail images, but it does not disclose that the thumbnail image of an image is generated "when the image is associated with the area".

In sum, at least one element in claim 16 is missing in both Pajitnov and Hoffert. Pajitnov and Hoffert, singly or in combination, therefore cannot render claim 16 obvious.

Claims 17-20 depend on claim 16 and thus have all the limitations of claim 16. In addition, as discussed above in association with the rejections to claims 2-9 and 11-15, one or more elements in claims 17-20 are not disclosed in Pajitnov and Hoffert.
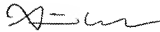
Withdrawal of the Section 103 rejections on claim 16, and its associated dependent claims 17-20 is respectfully requested.


CONCLUSION

Applicants believe that the above discussion is fully responsive to all grounds of rejection set for the in the Office Action and the claims should be in condition for allowance.

If for any reasons the Examiner believes a telephone conference would in any way expedite resolution of the issues raised in this appeal, the Examiner is invited to telephone the undersigned at 650-610-3522.

Respectfully submitted,


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